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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

YOSHABEL CLEMENTS,

Plaintiff and Appellant,

v.

SOJOURN PROPERTIES, INC., et al.,

Defendants and Respondents.

A141288

(San Francisco County  
Super. Ct. No. CGC 13-533602)

Plaintiff Yoshabel Clements brought this action for malicious prosecution against Sojourn Properties, Inc., and its president, Steven G. King (collectively, Sojourn), after Sojourn voluntarily dismissed an unlawful detainer action it had brought against Clements. On appeal, Clements challenges trial court orders sustaining an anti-SLAPP<sup>1</sup> motion filed by Sojourn and awarding Sojourn attorney fees. She argues (1) the anti-SLAPP motion was mooted by her filing an amended complaint, (2) the trial court erred in striking as untimely her opposition to the anti-SLAPP motion, (3) the court erred in finding she failed to show a probability of prevailing on the merits of her malicious-prosecution claim, and (4) the court erred in imposing an attorney fees sanction against

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<sup>1</sup> SLAPP is an acronym for strategic lawsuit against public participation. (*Jarrow Formulas, Inc. v. La Marche* (2003) 31 Cal.4th 728, 732, fn. 1.) Under Code of Civil Procedure section 425.16, a defendant may file an anti-SLAPP motion to strike unmeritorious claims that thwart constitutionally protected speech or petitioning activity. All statutory references in this opinion are to the Code of Civil Procedure unless otherwise specified.

her counsel. We affirm with the one exception that we reverse the trial court's sanction of attorney fees against Clements's counsel.

I.  
BACKGROUND

Sojourn operates and manages the Harcourt Hotel, which is located on Larkin Street in San Francisco. In November 2011, Clements entered into a rental agreement with Sojourn for a unit in the Harcourt. The lease is not included in the record, and the parties appear to agree it was an oral agreement. In a declaration filed by King, he claimed the tenancy was intended to be short-term, and Clements was to pay weekly rent.<sup>2</sup> According to King, tenants are required to complete a long-term rental application when their tenancy extends beyond four weeks.

At his deposition, King described the application requirement as an "oral policy." He could not say whether it had been written down, but he maintained "it's certainly an understanding of the way the business has been operated." Galo Dzib, the Harcourt's onsite property manager, testified he could not recall when Clements was provided with a rental application or who provided one to her.

Shortly after she took up residency in the Harcourt, Clements complained to the Department of Building Inspections about alleged health-code violations. A record of inspection, dated mid-November 2011, indicates a notice of violation had been issued the previous month because evidence of bedbugs was found in the apartment. The inspector found that the bedbug violation remained outstanding and that the problem had not been addressed in accordance with Department of Public Health protocols.

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<sup>2</sup> Clements argues that King's declaration to this effect is inadmissible because it does not conform to the requirements of section 2015.5, which requires a declarant to certify "under penalty of perjury that the [content of the declaration] is true and correct." King declared: "I swear under penalty of perjury under the laws of the State of California that the foregoing is true and correct *to the best of my own personal knowledge or, where indicated, information and belief.*" Clements takes issue with the italicized language. But we conclude she waived the issue by failing to object below. (See Evid. Code, § 353.)

Clements claims that Sojourn retaliated against her for reporting the violation by threatening her with eviction on November 20 and 21 and by serving a three-day notice to perform or quit on November 29. The three-day notice stated that Clements breached her rental agreement by failing to provide a completed rental application to the manager and directed her to complete and return such an application to Dzib within three days or vacate the premises. The notice referenced an incorrect address for Dzib by reporting his address as Clements's. One day after the three-day notice was sent, November 30, Sojourn served Clements with a notice stating her tenancy would be terminated in seven days.

Soon thereafter, Sojourn sued Clements for unlawful detainer. Clements filed a demurrer, but it was overruled. Later, Clements filed a motion for judgment on the pleadings, though it appears that the motion was never adjudicated. A trial was eventually set for early September 2012, but a week or so before it was to start Sojourn voluntarily dismissed the action. In the case presently before us, the parties disagree about Sojourn's reasons for dismissing the unlawful detainer action. Sojourn says it dismissed the case because Clements threatened to file a habitability action, and it wanted to resolve all of the parties' disputes. Clements says Sojourn dismissed the case because it was "groundless."<sup>3</sup>

In August 2013, Clements brought the instant case for malicious prosecution, and part of its procedural history is relevant to the issues on appeal. Sojourn demurred to the complaint on September 30, 2013. On October 28, 2013, Clements filed a document stating she intended to deliver a first amended complaint to Sojourn before the hearing on the demurrer. The next day Sojourn filed its anti-SLAPP motion.

The hearing on the anti-SLAPP motion was initially set for November 27, 2013. Under section 1005, all papers opposing an anti-SLAPP motion must be filed at least nine

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<sup>3</sup> In November 2012, Clements sued Sojourn and about 15 other defendants in a separate action based on causes including breach of the implied warranty of habitability, breach of the implied covenant of quiet enjoyment, retaliatory eviction, nuisance, and trespass. Our record does not indicate whether or how this action was resolved.

court days before a hearing, meaning Clements's opposition was due on or before November 14. Clements missed that deadline, but she filed a first amended complaint on November 15. On November 27, the anti-SLAPP motion was transferred from Department 302 (Law and Motion) to Department 501 (Real Property/Housing), and the hearing on the motion was continued to December 30. On December 16, nine court days before the new hearing date, Clements filed a memorandum of points and authorities in opposition to the anti-SLAPP motion, along with her own declaration and a declaration from her attorney. She then filed additional evidence piecemeal between December 19 and December 27.

The hearing on the anti-SLAPP motion was held as scheduled on December 30, 2013, and the motion was granted that same day. Initially, the court found Clements's amended complaint did not moot the motion to strike. It then struck Clements's "piecemeal opposition" as untimely, but found that, even considering the piecemeal opposition, Clements failed to sustain her burden of showing a probability of prevailing on the merits. Finally, the court ordered Clements and her counsel to pay Sojourn's attorney fees in the amount of \$3,400.

In January 2014, Clements filed a motion for reconsideration and a motion for relief from dismissal due to attorney mistake or neglect under section 473, subdivision (b). Both motions were denied.

## II. DISCUSSION

### A. *Standard of Review.*

The anti-SLAPP statute allows a defendant to move to dismiss "certain unmeritorious claims that are brought to thwart constitutionally protected speech or petitioning activity." (*Robinzine v. Vicory* (2006) 143 Cal.App.4th 1416, 1420-1421.) The heart of the statute states: "A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has

established that there is a probability that the plaintiff will prevail on the claim.”  
(§ 425.16, subd. (b)(1).)

In evaluating an anti-SLAPP motion, courts engage in a two-step, burden-shifting analysis. Under the first step, the court considers whether the defendant has made a prima facie showing that the plaintiff’s cause of action arises from actions taken in furtherance of the right of petition or the right of free speech in connection with a public issue. (§ 425.16, subd. (b)(1); *Equilon Enterprises v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 67.) To make such a showing, the defendant need not show that its actions were protected as a matter of law, but need only establish a prima facie case that its actions fell into one of the categories listed in section 425.16, subdivision (e). (*Flatley v. Mauro* (2006) 39 Cal.4th 299, 314.) Here, Clements concedes that Sojourn sustained its burden under the first step of showing a prima facie case that the malicious prosecution claim arose out of constitutionally protected activity, i.e., the prosecution of the unlawful detainer action.

Accordingly, the assessment turns to the second step where the burden shifts to the plaintiff. Under this step, the anti-SLAPP motion will be granted unless the plaintiff establishes “a probability” it will prevail, even though the claim arose from protected activity. (§ 425.16, subd. (b)(1).) This means the “ ‘plaintiff must demonstrate that the complaint is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment.’ ” (*Premier Medical Management Systems, Inc. v. California Ins. Guarantee Assn.* (2006) 136 Cal.App.4th 464, 476, italics omitted.) To demonstrate the complaint is legally sufficient, the plaintiff is only required to show a “ ‘minimum level of legal sufficiency and triability.’ ” (*Grewal v. Jammu* (2011) 191 Cal.App.4th 977, 989; see also *Navellier v. Sletten* (2002) 29 Cal.4th 82, 89.) If the plaintiff can meet this burden, the anti-SLAPP motion must be denied, and the plaintiff may continue to litigate the case. (See *Flatley v. Mauro*, *supra*, 39 Cal.4th at p. 332 & fn. 16.)

In determining whether the plaintiff has met the second step’s burden, “ ‘the trial court is required to consider the pleadings and the supporting and opposing affidavits

stating the facts upon which the liability or defense is based.’ ” (*Dowling v. Zimmerman* (2001) 85 Cal.App.4th 1400, 1417.) The Legislature did not intend for courts to weigh conflicting evidence to determine whether it is more probable than not that a plaintiff will prevail on the claim “but rather intended to establish a summary-judgment-like procedure available at an early stage of litigation.” (*Taus v. Loftus* (2007) 40 Cal.4th 683, 714.) Thus, it is “the court’s responsibility is to accept as true the evidence favorable to the plaintiff [citation] and evaluate the defendant’s evidence only to determine if it has defeated that submitted by the plaintiff as a matter of law.” (*HMS Capital, Inc. v. Lawyers Title Co.* (2004) 118 Cal.App.4th 204, 212.)

We review the trial court’s order granting Sojourn’s anti-SLAPP motion de novo and apply our independent judgment to determine whether Clements has shown a probability of prevailing on her claim of malicious prosecution. (*Mendoza v. Wichmann* (2011) 194 Cal.App.4th 1430, 1447.) We review the court’s admissibility determinations of documents and evidence under the abuse-of-discretion standard. (*Pannu v. Land Rover North America, Inc.* (2011) 191 Cal.App.4th 1298, 1317.) We similarly apply this standard to the court’s denial of Clements’s motion for reconsideration. (*Glade v. Glade* (1995) 38 Cal.App.4th 1441, 1457.) Finally, we review de novo the order denying Clements’s section 473 motion for mandatory relief to the extent the issues present pure questions of law. (*SJP Ltd. Partnership v. City of Los Angeles* (2006) 136 Cal.App.4th 511, 516.)

*B. The Amended Complaint Did Not Moot Sojourn’s Anti-SLAPP Motion.*

We first consider and reject Clements’s claims that Sojourn’s anti-SLAPP motion was mooted because Clements filed an intent to file an amended complaint on October 28, 2013, and then filed an amended complaint on November 15, the day after her opposition to the anti-SLAPP motion was due.

We begin by discussing *Simmons v. Allstate Insurance Company* (2001) 92 Cal.App.4th 1068, which considered whether an amended pleading moots a pending anti-SLAPP motion. In that case, the cross-defendant brought an anti-SLAPP motion to strike a cross-complaint on the ground that all causes of action arose out of protected

activity. (*Id.* at pp. 1071-1072.) Faced with an adverse tentative ruling at the hearing on the motion, the cross-complainant asked for leave to amend. (*Ibid.*) The trial court denied the request and granted the anti-SLAPP motion. (*Ibid.*) The Third Appellate District affirmed. It reasoned that “[a]llowing a SLAPP plaintiff leave to amend the complaint once the court finds the prima facie showing has been met would completely undermine the statute by providing the pleader a ready escape from section 425.16’s quick dismissal remedy. Instead of having to show a probability of success on the merits, the SLAPP plaintiff would be able to go back to the drawing board with a second opportunity to disguise the vexatious nature of the suit through more artful pleading. This would trigger a second round of pleadings, a fresh motion to strike, and inevitably another request for leave to amend.” (*Id.* at p. 1073.)

A similar conclusion was reached in *Salma v. Capon* (2008) 161 Cal.App.4th 1275. In that case, the trial court found that an amended complaint filed before the court could rule on the defendant’s pending anti-SLAPP motion did not moot the motion. (*Id.* at pp. 1281-1282.) This court affirmed. “Requiring the trial court to analyze the amended claims under section 425.16 simply because the claims were amended before the court ruled on the first motion to strike would cause all of the evils identified in *Simmons* [*v. Allstate Ins. Co.*, *supra*, 92 Cal.App.4th 1068] and would undermine the legislative policy of early evaluation and expeditious resolution of claims arising from protected activity.” (*Id.* at p. 1294.)

*Simmons* and *Salma* were distinguished in *JKC3H8 v. Colton* (2013) 221 Cal.App.4th 468 and *Nguyen-Lam v. Cao* (2009) 171 Cal.App.4th 858. In *Colton*, the court concluded the anti-SLAPP motion was “moot from the start” because it was filed about two hours after the plaintiff’s amended complaint. (*Colton*, at pp. 478-479.) The court explained that this conclusion did not frustrate the purpose of the anti-SLAPP statute since “any allegations of protected activity were removed from the lawsuit *before* the anti-SLAPP motion was filed.” (*Id.* at p. 479, original italics.) In *Nguyen-Lam*, the court granted the defendant’s anti-SLAPP motion, but allowed leave to amend so the plaintiff could plead new facts that had already been presented in connection with the

anti-SLAPP hearing. (*Nguyen-Lam*, at p. 869.) The court reasoned that since the evidence prompting the amendments was included in declarations submitted for the hearing, there was no risk that the purpose of the anti-SLAPP statute would be thwarted with delay, distraction, or increased costs. (*Id.* at p. 872.)

As in *Simmons* and *Salma*, the anti-SLAPP motion here was filed before the amended pleading. Clements contends this timing should not control because she filed a notice of an intent to file an amended complaint one day before Sojourn filed its motion. But we are unaware of any statute or rule that gives legal effect to such a notice. And, as the trial court observed at the December 30 hearing, allowing a notice of intent to moot a demurrer or motion to strike would be unworkable. A plaintiff could file a notice of intent simultaneously with the original complaint and indefinitely forestall any challenge to the pleadings.

Even if the notice of intent had a legal effect, we would still affirm the trial court's holding that the anti-SLAPP motion was not moot. Unlike in *Colton*, the amendments to Clements's complaint did not withdraw allegations of protected activity. As in the original complaint, the amended complaint alleged that Sojourn's unlawful detainer action amounted to malicious prosecution. Moreover, Clements could not rely on her pleadings to demonstrate a probability of success on the merits. (*Hecimovich v. Encinal School Parent Teacher Organization* (2012) 203 Cal.App.4th 450, 474.) Even if she could, Clements has pointed to no new facts in her amended complaint that would have changed this analysis.

We conclude that Sojourn's anti-SLAPP motion was not mooted because Clements had earlier filed an intent to file an amended complaint.

*C. Clements Failed to Show a Probability of Prevailing on the Merits.*

Clements concedes she bore the burden of demonstrating a probability of prevailing on the merits of her claim for malicious prosecution. We agree with the trial court that “[e]ven if the opposition [materials were] considered, [Clements] fail[ed] to sustain her burden.”

We begin by discussing the scope of the materials we consider in evaluating Clements’s opposition. The trial court struck as untimely all of Clements’s opposition materials. The hearing on the anti-SLAPP motion was initially calendared for November 27, Clements’s opposition papers were originally due to be filed by November 14, and they should have been served on opposing counsel through one of the methods described by section 1005.<sup>4</sup> But Clements’s opposition brief was not filed until December 16, and it was served on opposing counsel by mail.<sup>5</sup>

Clements argues that the deadline for opposition papers was extended to December 16 when the hearing was continued to December 30, 2013. Even assuming, without deciding, that this argument has merit, most of Clements’s opposition materials were still filed too late. Clements did not file her request to take judicial notice of documents until December 19, and she waited until then to ask the court clerk to deliver the entire court file in the unlawful detainer action to Department 501. And the actual 257 pages of documents for which judicial notice was sought were not filed until the next day. On December 23, only three court days before the hearing, Clements filed a second request for judicial notice. And she filed deposition transcripts on December 27, the Friday before the hearing.

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<sup>4</sup> Under section 1005 “[a]ll papers opposing a motion . . . shall be filed with the court and a copy served on each party at least nine court days, and all reply papers at least five court days before the hearing.” (§ 1005, subd. b.) The statute requires opposing papers to be served by “personal delivery, facsimile transmission, express mail, or other means consistent with Sections 1010, 1011, 1012, and 1013, and reasonably calculated to ensure delivery to the other party or parties not later than the close of the next business day after the time the opposing papers . . . are filed.” (§ 1005, subd. c.)

<sup>5</sup> Clements continued to disregard filing requirements on appeal. She failed to submit her reply brief by the deadline, despite having been granted several extensions.

Clements argues these filings were timely, but we cannot agree. As an initial matter, Clements points out that the local rules of the Los Angeles Superior Court require requests for the court's own files be made within five court days of a hearing. But this action was filed in San Francisco Superior Court, which Clements concedes has adopted no such rule. She further argues that the trial court was required to take judicial notice of certain documents under Evidence Code section 453, which states that judicial notice of certain matters where an adverse party is given "sufficient notice" and that the proponent furnishes the court with "sufficient information." (Evid. Code, § 453.) Clements reasons that Sojourn must have had sufficient notice because it was able to file objections. But Sojourn's main objection was that the evidence was untimely, and much of the evidence Clements filed was after Sojourn's opportunity to reply had already expired. Finally, Clements asserts that the transcripts only needed to be filed at some point before the hearing, but she cites no authority to support this assertion. Her insistence that Sojourn had ample time to respond simply does not square with the fact that the opposition papers trickled in even after Sojourn filed its reply and were submitted immediately before and after the Christmas holidays. We conclude that the trial court did not abuse its discretion in striking the opposition materials filed after December 16.

Since the evidence submitted in connection with Clements's opposition to the anti-SLAPP motion was properly struck, Clements could not have prevailed on Sojourn's anti-SLAPP motion. As Clements's claims arose from the exercise of constitutionally protected activity, Clements had the burden to demonstrate that her complaint was legally sufficient and supported by a showing of facts to sustain a favorable judgment. (*Premier Medical Management Systems, Inc., v. California Ins. Guarantee Assn., supra*, 136 Cal.App.4th at p. 476.) To meet this burden, Clements needed to present competent admissible evidence. (See *Paiva v. Nichols* (2008) 168 Cal.App.4th 1007, 1017.) Since Clements's evidence was not timely filed, she had almost none to offer. While Clements's memorandum of points and authorities in support of her opposition to the motion to strike was arguably timely, it was, without more, insufficient. The declarations of Clements and her attorney, which were submitted along with Clements's memorandum

of points authorities on December 19, do not change our analysis. The two declarations are almost identical, and it is not always clear that the declarants have personal knowledge of the facts set forth therein. Moreover, the declarations rely on documents attached to Clements's untimely request for judicial notice.

Even considering Clements's points and authorities and untimely evidence, Clements failed to sustain her burden of showing a probability of prevailing on the merits. Malicious-prosecution claims are generally disfavored because of the principles favoring open access to the courts. (*Downey Venture v. LMI Ins. Co.* (1998) 66 Cal.App.4th 478, 493.) The elements of a claim for malicious prosecution have been carefully circumscribed to prevent litigants from being deterred from bringing potentially valid claims. (*Sheldon Appel Co. v. Albert & Olier* (1989) 47 Cal.3d 863, 872.) To prevail on such a claim, a plaintiff must prove three elements: (1) the defendant commenced a lawsuit that was terminated in plaintiff's favor, (2) the defendant lacked probable cause to bring the lawsuit, and (3) the lawsuit was initiated with malice. (*Citi-Wide Preferred Couriers, Inc. v. Golden Eagle Ins. Corp.* (2003) 114 Cal.App.4th 906, 911.)

In this case, Clements failed to show a probability of success on the second element, i.e., that Sojourn lacked probable cause in bringing the unlawful detainer action. "The question of probable cause is 'whether as an objective matter, the prior action was legally tenable or not.' [Citation.] 'A litigant will lack probable cause for his action either if he relies upon facts which he has no reasonable cause to believe to be true, or if he seeks recovery upon a legal theory which is untenable under the facts known to him.' [Citation.] 'In a situation of complete absence of supporting evidence, it cannot be adjudged reasonable to prosecute a claim.' [Citation.]" (*Soukup v. Law Offices of Herbert Hafif* (2006) 39 Cal.4th 260, 292.) Put another way, probable cause is lacking where no reasonable attorney would have thought the claim tenable. (*Sheldon Appel Co. v. Albert & Olier, supra*, 47 Cal.3d at p. 886.)

Clements's appellate briefing on whether Sojourn had probable cause to bring the unlawful detainer action is unclear. In violation of applicable appellate rules, Clements

failed to support her factual assertions with specific citations to the record. (See Cal. Rules of Court, rule 8.204(a)(1)(C).) Instead, each paragraph in the section devoted to probable cause concludes with a block citation to the same 95 pages of the record, which encompass two motions in limine and a motion for judgment on the pleadings filed in the unlawful detainer action, along with various evidence submitted in connection with those motions. Citing the record in such a way is tantamount to a complete failure to provide citations (see *Bernard v. Hartford Fire Ins. Co.* (1991) 226 Cal.App.3d 1203, 1205), and we may disregard the corresponding arguments. (*Del Real v. City of Riverside* (2002) 95 Cal.App.4th 761, 768.)

As with her appellate briefing, Clements's memorandum of points and authorities filed in opposition to the anti-SLAPP motion below failed to provide specific citations to the record of the underlying unlawful detainer action. The points and authorities generally asserted that Clements's motions in limine in the unlawful detainer action established that Sojourn's claims lacked a factual or legal basis. But Clements failed to describe the relevant arguments raised in these motions. Instead, she essentially invited the trial court to independently review the record in the unlawful detainer action. The court was under no obligation to do so. Moreover, many of the arguments Clements now raises on the issue of probable cause were not asserted in the points and authorities. For example, she did not specifically cite or refer to her motion for judgment on the pleadings in the unlawful detainer action.

To the extent we can discern Clements's arguments on the question of Sojourn's probable cause to bring the unlawful detainer action, we conclude that they lack substantive merit. The crux of Clements's position appears to be that the arguments asserted in the unadjudicated motions in limine and motion for judgment on the pleadings in that action established Sojourn lacked any legal or factual basis to bring the action. But even if the motions were meritorious and dispositive, they did not establish lack of probable cause as a matter of law. (See *Jarrow Formulas, Inc. v. LaMarche*, *supra*, 31 Cal.4th at p. 742 [defense summary judgment in underlying action did not establish lack of probable cause].) At most, the motions suggest there may have been deficiencies

in Sojourn's three-day notice and unlawful detainer complaint, and they raise questions about whether Clements was actually told she was required to fill out a rental application in order to maintain her residency at the Harcourt. But they do not show that a reasonable attorney would have found Sojourn's unlawful detainer action to be legally untenable or demonstrate a probability that Clements would have prevailed on her claim for malicious prosecution.

*D. The Timing of the Hearing Does Not Warrant Reversal.*

Clements contends we must reverse because Sojourn failed to obtain a hearing on its anti-SLAPP motion within 30 days of service, as required by section 425.16. The argument is meritless. Subdivision (f) of section 425.16 provides, in relevant part: "The motion [to strike] shall be scheduled by the clerk of the court for a hearing not more than 30 days after the service of the motion[,] unless the docket conditions of the court require a later hearing." In this case, Sojourn obtained a hearing within 30 days of service. Its motion to strike was filed on October 29 and the hearing was noticed for November 27 in Department 302. As Clements points out, the trial court later transferred the matter to Department 501 and continued the hearing to December 30. But that continuance was ordered by the court and thus was beyond Sojourn's control. Moreover, Clements actually benefitted from the continuance, as she failed to file her opposition brief before the original November 27 hearing date.

*E. The Trial Court Erred in Ordering Counsel to Pay Attorney Fees.*

As part of its December 30 order granting Sojourn's anti-SLAPP motion, the trial court ordered Clements "and/or her counsel" to pay Sojourn \$3,400 in attorney fees. Clements argues that the entire December 30 order should be vacated because the trial court overstepped by ordering her counsel to pay attorney fees.<sup>6</sup> We agree the trial court

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<sup>6</sup> Clements's counsel is not a party to this appeal, and Clements's standing to challenge the attorney fee award against her counsel is questionable, as she was not aggrieved by this aspect of the trial court's decision. (See § 902; see also *Rebney v. Wells Fargo Bank* (1990) 220 Cal.App.3d 1117, 1128 ["Appellants must be parties of record, and their rights or interests must be injuriously affected by the judgment"].) Nevertheless, as no party has raised standing, we need not and do not address the issue.

erred in ordering Clements's counsel to pay attorney fees (see *Moore v. Kaufman* (2010) 189 Cal.App.4th 604, 615), but the error does not warrant a reversal of the entire December 30 order. Clements has cited no authority, and we are aware of none that would require us to vacate the entire order. Accordingly, we vacate only that portion of the order requiring counsel to pay attorney fees.

*F. Clements Has Abandoned Her Appeal of the Trial Court's Orders Denying Her Motions for Reconsideration and Mandatory Relief.*

In her notice of appeal, Clements indicated a challenge to the trial court's orders denying her motion for reconsideration and motion for mandatory relief. Her briefing, however, does not meaningfully discuss either order. In the absence of any cogent legal argument, we consider the challenges to these orders to be abandoned and decline to address them. (See *Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 956.)

III.  
DISPOSITION

We reverse the trial court's award of attorney fees against Clements's counsel. The trial court's orders granting Sojour's motion to strike and denying Clements's motions for reconsideration and mandatory relief are affirmed in all other respects. The parties shall bear their own costs on appeal.

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Humes, P.J.

We concur:

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Dondero, J.

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Banke, J.

*Clements v. Sojourn Properties* (A141288)